

REMARKS

Claim Objections

In the Office Action dated September 2, 2004, Examiner objected to Claim 15 asserting that “said coupling member” should be “said at least one coupling member”. Applicant has amended Claim 15 as suggested by Examiner.

Claim Rejections – 35 U.S.C. §102

Claims 11-14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Lindhal (US 5,442,877).

Directing Examiner’s attention to MPEP 2131, the threshold issue under Section 102 is whether the Examiner has established a *prima facie* case for anticipation. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)”. “The identical invention must be shown in as complete detail as is contained in the ...claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1566 (Fed. Cir. 1989).

Amended Claim 11 recites a landscape edging system comprising “a first edging component having a body including a base ... said base including an upper surface, a lower surface opposite said upper surface, and a plurality of sides forming a container in conjunction with said upper surface of said base; a form disposed on said upper surface of said base within said container”

Lindhal fails to disclose a base having a plurality of sides forming a container in conjunction with the upper surface of the base and a form disposed on the upper surface of the base within the container.

In the Office Action dated September 2, 2004, Examiner refers to flanges 20 of Fig. 2A in Lindhal as the base. Examiner also refers to components 12, 14, 16, and 26 of Fig. 2A in Lindhal as the form. It is clear from Fig. 2A that the base in Lindhal does not have a plurality of sides forming a container in conjunction with the upper surface of the base (flanges 20). Lindhal only describes flanges 20 as being “parallel to top surface 12 and extend out from vertical support walls 14 and 16, forming the base of edging module 10.” (Col. 4, lines 14-16). There is no mention in Lindhal of sides of flanges 20, or any other base-like component, forming a container or a container-like shape within which the form is to be disposed.

Since Lindhal does not disclose a container formed by the sides and upper surface of the base, it cannot disclose a form disposed on the upper surface of the base within the container. As seen in Fig. 2A, the base (20) and form(12, 14, 16, 26) in Lindhal form a unitary structure. Lindhal states, “Edging module 10 is of generally unitary or integral form, having top edging surface 12, first vertical support wall 14, second vertical support wall 16, a plurality of stacking support members 18, a pair of flanges 20, a pair of recessed cross support members 26” (Col. 3, lines 62-68). Therefore, the form is not disposed *within* a container formed by the base, but is rather *an extension of the base*.

Amended Claim 11 also recites a landscape edging system comprising “at least one coupling member configured to demountably couple with said first edging component ... said at least one coupling member including a body having a side wall

mounted on a coupling base ... said coupling base configured to anchor to said ground feature.”

Lindhal fails to disclose a coupling member having a coupling base configured to anchor to a ground feature. In the Office Action dated September 2, 2004, Examiner asserts that the coupling base in Lindhal, reference numeral 62 of Fig. 2A, is “configured to anchor to said ground feature (in that coupling base will touch ground).”

As would be appreciated by one with ordinary skill in the art, there is a significant structural and functional difference between a coupling base being *anchored* to the ground and a coupling base merely *touching* the ground. *Merriam Webster's Collegiate Dictionary, 10th Edition* provides the following definitions:

anchor vb 2 : to secure firmly : FIX

touchvb 8 : to cause to be briefly in contact or conjunction with something

To be briefly in contact or conjunction with or conjunction with something is not the same as being secured firmly or fixed to something.

The only thing that the coupling base in Lindhal is configured to anchor to is edging module 10. Nowhere in Lindhal does it discuss coupling base 62 being configured to anchor to a ground feature.

Applicant respectfully submits that Lindhal fails to teach each and every element as set forth in amended Claim 11. Therefore, Applicant respectfully submits that Lindhal fails to anticipate amended Claim 11 and that Claim 11 is currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §103

Claims 15-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lindhal (US 5,442,877) in view of Kendrick (US 4,945,675).

Since Claims 15-18 depend from independent Claim 11, they are also patentable as they contain the same limitations as Claim 11.

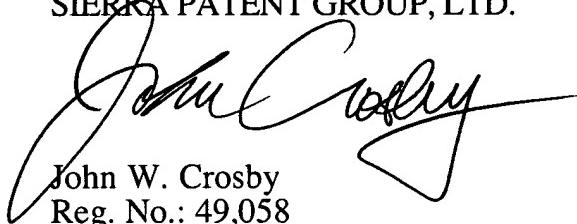
Applicant respectfully submits that Claims 15-18 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

Newly Presented Claims

Applicant respectfully submits that newly presented claims 28-35 find support in the original disclosure and do not constitute new matter.

If the Examiner has any questions regarding this application, the Examiner may telephone the undersigned at 775-586-9500.

Respectfully submitted,
SIERRA PATENT GROUP, LTD.



John W. Crosby
Reg. No.: 49,058

Dated: December 2, 2004

Sierra Patent Group, Ltd.
P.O. Box 6149
Stateline, NV 89449
(775) 586-9500
(775) 586-9550 Fax